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*Attorneys for Defendant, Etsy, Inc.*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

AS YOU SOW, a 501 (c)(3) non-profit  
corporation,

Plaintiff,

v.

Etsy, Inc., and DOES 1-20, inclusive

Defendants,

Case No. 24-cv-04203-MMC

**JOINT SCHEDULE FOR MOTION TO  
APPROVE PROPOSED SETTLEMENT**

Judge: Hon. Maxine M. Chesney

Date:

Time:

Place:

As You Sow (“AYS”) and Etsy, Inc. (“Etsy”) reached a settlement in this matter on December 26, 2024.<sup>1</sup> Because this settlement resolves a claim made under the California Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), reporting to the California Attorney General and court approval of the settlement is required.<sup>2</sup>

### I. LAW

By California law, the settlement must be reported to the Attorney General of the State of California (“AG”). Cal Health & Saf. Code § 25249.7(f)(2). Plaintiff has an obligation to notify the AG of a settlement within five days of the date the matter is “Subject to a Settlement.” 11 Cal. Code Regs. (“CCR”) § 3003(a). Subject to a Settlement means:

that a written settlement agreement has been signed by the private enforcer and the alleged violator, or an oral agreement has been stated on the record in court in such manner as to render the agreement enforceable pursuant to [Code of Civil Procedure section 664.6](#), even if the settlement is contingent on the entry of a judgment pursuant to stipulation or other judicial approval.

11 CCR § 3001(a).

A noticed motion must be filed for court approval of a Proposition 65 settlement:

If there is a settlement of an action brought by a person in the public interest under subdivision (d), the plaintiff shall submit the settlement, other than a voluntary dismissal in which no consideration is received from the defendant, to the court for approval upon noticed motion, and the court may approve the settlement only if the court makes all of the following findings:

- (A) The warning that is required by the settlement complies with this chapter.
- (B) The award of attorney’s fees is reasonable under California law.
- (C) The penalty amount is reasonable based on the criteria set forth in paragraph (2) of subdivision (b).

Cal. Health & Saf. Code § 25249.7(f)(4). The Noticed motion must also be served upon the California Attorney General, which has 45 days to review the same.<sup>3</sup> *Id.* at (f)(5); 11 CCR § 3003(a). As a result, no hearing on a motion to approve can be set prior to 45 days after filing of a

<sup>1</sup> The matter has been assigned number 2024-01113 by the California Attorney General. *See* <https://oag.ca.gov/prop65/60-Day-Notice-2024-01113>.

<sup>2</sup> The matter also involves a claim under California’s Unfair Competition Law, settlement of which does not require court approval.

<sup>3</sup> Note that “the fact that the Attorney General does not object or otherwise respond to a settlement shall not be construed as endorsement of or concurrence in any settlement.” 11 CCR § 3003(a).

1 motion to approve.

2 **II. AGREED SCHEDULE FOR MOTION TO APPROVE**

- 3 1. Counsel for AYS will file a notice with this Court within 2 business days of  
4 obtaining the signed written settlement agreement. If no such notice is filed by  
5 February 14, 2025, the parties will appear on February 21, 2025, at 10:30 a.m. for a  
6 Case Management Conference.
- 7 2. Counsel for AYS will comply with the “Subject to a Settlement” requirements to  
8 notify the AG by five days after the written settlement agreement is signed by the  
9 parties.
- 10 3. Counsel for AYS will file noticed motion for approval, with supporting papers,  
11 within 10 business days after the parties sign the written settlement agreement, which  
12 it will provide to the AG on the same day. The motion will include a request to  
13 dismiss the matter with prejudice as to the Products, upon approval of the settlement.
- 14 4. Counsel for AYS will request a hearing on the matter on the first available Friday at  
15 9:00 am following the expiration of the required 45-day AG review period.

16 Respectfully Submitted,

17  
18 Dated: January 22, 2025

19 By /s/ Rachel S. Doughty  
20 Rachel S. Doughty  
21 GREENFIRE LAW, PC  
Attorneys for Plaintiff, As You Sow

22 Dated: January 22, 2025

23 By /s/ Nicholas J. Hoffman  
24 Nicholas J. Hoffman  
25 McGUIREWOODS LLP  
Attorneys for Defendant, Etsy, Inc.

26 *\*\*Pursuant to Civil L.R. 5-1(i)(3), the*  
27 *electronic signatory has obtained approval*  
28 *from this signatory*